Message

From: Milanes, Silvia [Milanes.Silvia@epa.gov]
Sent: 11/6/2020 8:39:45 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Media Clippings November 6th 2020 (Afternoon Edition)

Daily Media Clippings November 6th 2020 (Afternoon Edition)

Water
Boston Public Schools receives $6.2 million grant from EPA for water fountains
NYS Senators urge EPA to extend public comment period on proposed Vessel Incidental Discharge standards
Wisconsin health officials recommend groundwater caps for 22 contaminants; list includes pesticides, PFAS

Pollution
EPA Issues Proposed Revisions to CSAPR Update
EPA awards $1.24 million grant to Port NOLA's Clean Truck Replacement Incentive Program
Indiana Environmental Group Joins Others In Suing EPA Over Industrial Flares

Administration
Trump or Biden: The future of chemistry could be good under either

Agriculture
Dicamba Battle Resumes as Soy, Cotton Groups Sue Over Restrictions
EPA, States Clash Over Pesticides

Water
Boston Public Schools receives $6.2 million grant from EPA for water fountains

Boston Public Schools will soon be installing 1,400 new water fountains and bottle-filling stations thanks to a $6.2 million grant from the Environmental Protection Agency, the district announced on Friday.

"We are so appreciative of this incredible grant, which will build on prior investments to provide cleaner, healthier school environments and improve equitable drinking water access for Boston Public Schools students, families, and staff," BPS Superintendent Brenda Cassellius said.

Over the next three years, the funding will be used to swap out five-gallon water coolers and plastic cups used at some schools and instead install filtered water fountains for staff and students to use.

The 87 buildings included in the project house schools, community centers and BPS welcome centers which served 35,211 students and 5,500 staff last year.

"This funding will help BPS continue to meet state and federal guidelines, reduce environmental impacts, accommodate school preference for filtered bottle refill stations, and promote the overall health and well-being of our community," Cassellius said.

The grant is part of a larger EPA initiative to remove sources of lead in drinking water, particularly in disadvantaged communities. BPS is one of 10 grantees.

Elevated lead levels were discovered within BPS in 2016, but recent test results showed out of 733 units tested across 80 schools in 2019, less than 0.7% of samples had excessive lead or copper, down from 12% in 2016, according to the district.

To receive the grant, BPS had to commit to matching the funds, and the City of Boston will invest $10.34 million of BPS funds toward the project.

In addition to expanding access to clean drinking water at school, cutting back on plastic bottles, paper waste and transportation emissions will also reduce the school district's carbon footprint.

Studies have also shown such changes will lead to an increase in the amount of water students and staff drink daily, and an increase in positive health outcomes.

"These projects will result in tangible and lasting benefits by significantly advancing health protections for children, our most vulnerable population, with a focus on Boston and disadvantaged communities across Massachusetts," said EPA New England Regional Administrator Dennis Deziel.

NYS Senators urge EPA to extend public comment period on proposed Vessel Incidental Discharge standards

NEW YORK (WWTI) — New York Senators are calling on the EPA to extend a written comment period for proposed vessel incidental discharge standards.

United States Senators Charles E. Schumer and Kirsten Gillibrand have called on the Environmental Protection Agency to extend the established written comment period for the proposed Vessel Incidental Discharge National Standards of Performance from 30 day, to 90 days. According to the Senators this would establish standards of performance for incidental discharge from commercial vessels in New York waterways.

Currently, members of the general public will have a total of 30 days to submit public comments on this proposals. Senator Schumer and Senator Gillibrand stated that this is an "insufficient" amount of time for public review, as it "will impact the Great Lakes, the environment and millions of New Yorkers for generations."

Schumer and Gillibrand are urging the EPA to extend the period to 90 days, with the deadline ending in January of 2021.

"The Great Lakes are the crown jewel of the Northeast, and they provide drinking water, recreation, and jobs for Upstate New York," said Senator Schumer. "We must do everything we can to reduce pollution in in this vital water system, including from ballast discharge, to preserve the quality of our Great Lakes so residents and visitors can enjoy these invaluable resources for years to come."

The Senators stated that the main concern surrounding the Vessel Incidental Discharge National Standard is in relation to ballast water management requirement. Senator Schumer's office stated that these have the potential to introduce new invasive species to the Great Lakes, or spur rapid increase of existing ones.

According to Senator Schumer's office, this proposed rule was originally published in the Federal Register on October 26, 2020. The *Vessel Incidental Discharge National Standards* are required by VIDA, which was signed into law in December of 2018.

Wisconsin health officials recommend groundwater caps for 22 contaminants; list includes pesticides, PFAS

State health officials are recommending new groundwater quality standards for 22 contaminants, including some PFAS and pesticides, that they say will ensure safe drinking water for Wisconsin residents.

The Department of Health Services forwarded the recommendations to the Department of Natural Resources, which will begin a roughly 2.5-year process of crafting rules to regulate facilities, practices and activities that can affect groundwater. The rules apply to bottled water, approved agricultural chemicals, contamination site cleanup, regulation of solid waste landfills, and more.

If approved, the standards would be added to a list of 138 currently regulated substances.

"These recommendations demonstrate our ongoing commitment to ensuring clean, safe drinking water for Wisconsin residents," said DHS deputy secretary Julie Willems Van Dijk. "With this essential information in hand, we continue our vital work to protect this precious resource."

DHS recommended a combined enforcement standard of 20 parts per trillion for six PFAS compounds -- including variants of FOSA and NEt-FOSE as well as PFOS, and PFOA. DHS previously recommended a combined standard of 20 ppt for just PFOS and PFOA.

Gavin Dehnert, a post-doctoral fellow with DHS, said scientific evidence shows the compounds tend to transform into PFOA and PFOS in the environment and into PFOS in the human body.

The recommendations for pesticides were based on guidance from the federal Environmental Protection Agency. Because the EPA does not have guidance on PFAS, the agency instead relied on available scientific studies, said Dr. Sarah Yang, a toxicologist with the agency.

Laura Olah, coordinator of the PFAS Community Campaign, said the recommendations reflect "abundant scientific evidence" that PFAS are a risk to public health.

SAIYNA BASHIR, THE CAPITAL TIMES

"They will provide much needed health-based guidance for impacted communities like Marinette where dozens of PFAS compounds have been detected in drinking water supplies, and in identifying public water supply wells that are not safe to use," Olah said. "This is a wonderful step forward in protecting Wisconsin residents and families from exposure to these highly toxic chemicals."

The recommendations stemmed from a list of 40 substances the DNR says are present or likely to be present in groundwater. DHS did not make recommendations for 18 substances that DNR requested because of a lack of scientific health data.
This is the 11th round of recommendations DHS has made since Wisconsin's groundwater law went into effect in 1983.
The DNR is currently in the process of crafting drinking, ground and surface water standards for 27 substances, including the common PFAS compounds PFOA and PFOS, based on recommendations from the last round. The agency plans to seek authorization from its policy board for those standards later this year.
With thousands of variations, PFAS are a group of largely unregulated synthetic compounds found in firefighting foam as well as food packaging, non-stick cookware, water-resistant clothing, carpeting and other products that have been shown to increase the risk of cancer and other ailments.
They have been found in drinking water, groundwater, surface water, soil, sediments, air, fish and wildlife and have been detected in all Madison's municipal wells.
The DNR is monitoring more than 40 PFAS contamination sites around the state, most of which the agency says can be traced to firefighting foam. Several contaminated sites at the Dane County Regional Airport have been linked to training areas used for decades by the Wisconsin Air National Guard and local fire departments.
Darsi Foss, administrator of the DNR's environmental management division, noted prior to 2019, which Gov. Tony Evers declared the "year of clean drinking water," the agency had not initiated new groundwater standards in more than a decade.
"Wisconsin has a long and proud history of groundwater protection," she said. "It is our intention to roll up our sleeves and move as quickly as possible to protect our citizens."

Pollution

EPA Issues Proposed Revisions to CSAPR Update

On October 30, 2020, EPA published in the Federal Register a proposed rule to revise its 2016 Cross-State Air Pollution Rule Update (the CSAPR Update) to further reduce interstate air pollution from 12 upwind states. EPA is proposing this revision pursuant to its authority under the Clean Air Act's "Good Neighbor" provision (section 110(a)(2)(D)(i)(I)), which requires upwind states to prevent sources located within their borders from contributing significantly to nonattainment or interfering with maintenance, of the national ambient air quality standards (NAAQS) in downwind states.
As discussed in a previous post, EPA is proposing these revisions to the CSAPR Update in response to a pair of 2019 rulings by the US Court of Appeals for the DC Circuit. Last September, in *Wisconsin v. EPA*, that court remanded the CSAPR Update to EPA for further consideration because EPA was unable to demonstrate that the rule would reduce upwind-state emissions to fully address significant contributions to downwind nonattainment and maintenance problems with respect to the 2008 ozone NAAQS by relevant NAAQS attainment deadlines applicable to downwind states. 938 F.3d 303 (D.C. Cir. 2019). Then, in October 2019, in *New York v. EPA*, the DC Circuit vacated and remanded EPA's 2018 CSAPR Close-Out Rule – in which EPA had determined that the CSAPR Update was a "full remedy" – on similar grounds. 781 Fed. App'x 4 (D.C. Cir. 2019).

NOx Emission Budgets for EGUs

To fully address upwind states' contributions to nonattainment and maintenance problems with respect to the 2008 ozone NAAQS in downwind states, EPA proposes to adopt more stringent ozone-season nitrogen oxide (NOx) emission budgets for fossil fuel-fired electric generating units (EGUs) in 12 states currently subject to the CSAPR Update, beginning in the 2021 ozone season (warm-weather months running from May 1 through September 30). Those 12 states are Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia. Under the proposal, the revised ozone-season NOx budgets for most of these 12 states would become increasingly stringent from 2021 to 2024. The proposed budget levels would remain constant at the 2024 levels for the ozone seasons in 2025 and subsequent years.
For nine other states subject to the CSAPR Update – Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin – EPA proposes to conclude that these upwind states' emissions (as limited by their existing CSAPR Update budgets) do not contribute significantly to projected downwind nonattainment or maintenance problems for the 2008 ozone NAAQS in 2021, and therefore that no tightening of their ozone-season NOx emission budgets is required to render the CSAPR Update a "full remedy." [1]
EPA proposes to find that limits on NOx emissions from non-EGU sources – which are not regulated under the original 2011 CSAPR or under the CSAPR Update – are not needed to eliminate upwind states' significant contributions to

nonattainment and maintenance problems for the 2008 ozone NAAQS. EPA thus does not propose any NOx controls for non-EGU facilities, but it solicits comments on certain issues concerning such facilities.

EPA's Four-Step Process Under the Good Neighbor Provision

In the proposed rule, EPA applies its four-step analytical framework used in the original CSAPR and the CSAPR Update. In the first step, EPA reviews its ozone air quality modeling projections for 2021 and identifies two projected downwind "nonattainment" air quality receptors (both in Connecticut) and two projected downwind "maintenance" receptors (one in Connecticut and one in Houston, Texas) in 2021 for the 2008 ozone NAAQS.

In the second step, EPA estimates each of the respective upwind states' largest modeled ozone "contribution" in 2021 to any of the four downwind nonattainment and maintenance receptors and determines whether that state's modeled contribution exceeds a "screening threshold" that is equivalent to one percent of the 2008 ozone NAAQS (i.e., 0.75 part per billion). Those upwind states that exceed the screening threshold are subject to further analysis under the EPA framework. For the 12 states whose emissions exceed this threshold, EPA proposes the budget revisions discussed above. Tennessee and the remaining nine states whose largest estimated contributions fall below the threshold were not subject to further analysis (though each will remain subject to its existing CSAPR Update emission budget).

In the third step, EPA applies its multi-factor test from CSAPR and the CSAPR Update to identify a uniform NOx emission control stringency level that EPA determines maximizes cost-effective EGU NOx emission reductions and downwind ozone air quality improvements. EPA proposes to use a control stringency level set at a marginal cost of $1,600 per ton of NOx emission reductions – a level that EPA proposes to find reflects optimization of operation of existing "selective catalytic reduction" (SCR) emission control equipment (including turning on and optimizing existing but currently idled SCR equipment) and installation of (or upgrades to) state-of-the-art NOx combustion controls at EGUs. Under the proposed rule, the revised emission budgets for ozone season 2021 reflect only the strategy of optimizing existing SCR controls because EPA proposes to conclude that installation of state-of-the-art NOx combustion controls by the 2021 ozone season is not feasible on a regional scale. EPA proposes to adjust emission budgets to reflect those additional controls beginning with the budgets for the 2022 ozone season.

In the fourth step, EPA addresses features of the emission allowance trading program designed to implement the ozone-season NOx emission budgets, including application of the same 21-percent "variability limit" (and the resulting 121-percent "assurance level") for each state's budget that applies currently under the existing CSAPR Update, as well as a proposal to authorize a one-time conversion of banked CSAPR Update allowances with vintages from 2017 to 2020 into a limited number of allowances that EGUs could use to comply with the new revised budgets. EPA proposes to create a new "Group 3" ozone-season NOx emission allowance trading program that would include the 12 states subject to more stringent budgets under the proposed rule. States that remain subject to the same ozone-season NOx budgets established in the 2016 CSAPR Update (i.e., the 9 states listed in the proposed rule that would not become subject to stricter budgets, plus Tennessee) would remain in "Group 2," and Georgia – which is still subject to the same ozone-season NOx budget established originally for that state in CSAPR – would remain in "Group 1."

EPA will hold a virtual public hearing on the proposed rule on November 12, and written public comments on the proposed rule are due by December 14. Pursuant to an order issued by the US District Court for the Southern District of New York in July, EPA is required to issue a final rule by March 15, 2021. *See New Jersey v. Wheeler*, No. 1:20-cv-01425 (S.D.N.Y. July 28, 2020).

EPA awards $1.24 million grant to Port NOLA's Clean Truck Replacement Incentive Program

The Port of New Orleans (Port NOLA) received a United States Environmental Protection Agency (EPA) grant for $1.24 million for the Port's Clean Truck Replacement Incentive Program (Clean TRIP), which gives truck and fleet owners who serve Port NOLA an opportunity to voluntarily replace older, inefficient drayage trucks with cleaner models.

Since 2016, Port NOLA has received approximately $1.6 million in grant funding for our Clean TRIP initiative. This new grant award is our largest to date and brings total Clean TRIP program grant funding to $2.8 million. This program was launched and implemented successfully with funding from the EPA and the Louisiana Department of Environmental Quality (LDEQ).

To date, 58 short-haul drayage trucks have been replaced with cleaner burning engines, reducing fine particulate emissions from these trucks by more than 96%, the equivalent of taking 73,000 cars off the road. These replacements also reduce carbon dioxide emissions by 542 tons per year.

The Port will begin accepting applications for new replacements in the spring of 2021 and expect to replace at a minimum 34 additional trucks, with a goal of 42 truck replacements. If we attain our goal, Port NOLA's Clean TRIP will have helped replace a total of 100 trucks since 2016.

"Truck drivers play a vital role in the Port NOLA freight gateway, and we're proud of the positive impact the Clean TRIP program has had on the environment as well as on the Port's trucking community," said Brandy D. Christian, President and CEO of Port NOLA and CEO of the New Orleans Public Belt Railroad. "These competitive grants continue to provide truck replacement rebates supporting our local Port trucking industry, helping reduce local air emissions and increasing reliability and efficiency of the movement of goods on our roadways."
The Clean TRIP program provides valuable incentives for eligible local truckers that service cargo terminals and warehouses along the Mississippi River and the Inner Harbor. Port NOLA's Clean TRIP initiative has contributed to community dialogue around air quality and opportunities for improvement, and catalyzed port industry efforts under the broader Port of New Orleans Clean Air Program.
Port NOLA was recognized as a Clean Fleet Leader for five consecutive years (2015-2019) by the New Orleans Clean Fuels Partnership for its reduction of fuel use from environmental sustainability programs such as Clean TRIP. In 2018, LDEQ honored Port NOLA with an Environmental Leadership Award for pollution prevention and commitment to environmental protection as an acknowledgement for the success of its Clean TRIP program.

Indiana Environmental Group Joins Others In Suing EPA Over Industrial Flares
The Hoosier Environmental Council has joined nine other environmental groups in a lawsuit against the Environmental Protection Agency. They say the agency hasn't reviewed or updated some pollution control standards for industrial flares for decades.
Industrial flares create the flames you see coming off of stacks on industrial buildings. They help get rid of toxic waste gases at places that make things like fertilizer and ethanol or process oil and natural gas.
But the groups said if flaring devices aren't working properly or don't have the right technology upgrades, they could be releasing pollution that should have been destroyed. HEC executive director Jesse Kharbanda said that could threaten the health of Hoosiers living downwind of those facilities.
"A lot of the facilities that we have begun exploring that could be subject to these standards are actually found in rural areas, in low income communities in rural areas," he said.
Kharbanda said the BP petroleum refinery in the northwest Indiana city of Whiting has also had problems with flaring excess chemicals in the past.
Thomas Frank is an activist with multiple environmental groups — Calumet Lives Matter, the Community Strategy Group and Indiana 350. He said because Indiana doesn't usually enact laws stricter than federal ones, public health can get ignored.
Frank said the refinery shouldn't have been able to move next to lower income residents and communities of color in the historic Marktown neighborhood.
"Over 100 children live right across the street from the stacks and those flares," he said.
Plaintiffs said the EPA is supposed to review the pollution control standards for flares every eight years and update them if necessary. Kharbanda says he hopes the suit will force the EPA to update the standards for industrial flares and improve the health of those communities.
Indiana ranks 6th for most toxic releases into the air, water, and land in the country.
EPA officials declined to comment.
Contact Rebecca at rthiele@iu.edu or follow her on Twitter at @beckythiele.
Indiana Environmental reporting is supported by the Environmental Resilience Institute, an Indiana University Grand Challenge project developing Indiana-specific projections and informed responses to problems of environmental change.

Administration
Trump or Biden: The future of chemistry could be good under either
In Pennsylvania, Luzerne County employees opened mail-in ballots on Nov. 4, 2020.
The 2020 US presidential election has been one of the most contentious races in recent memory. With ballots still being counted at C&EN's deadline, the US didn't yet know who its next president would be, although Joe Biden appeared poised to win.
But whether Donald J. Trump is reelected or Biden is newly elected, America's commander in chief will start his term in the middle of a pandemic. Also, negotiations may still be ongoing on an economic stimulus package that could have considerable ramifications for drug companies and chemical manufacturers.
The winner will face complex questions—about corporate taxes, environment and energy policy, international trade, and immigration—that could affect the US economy and American businesses long after his term is complete. At the

same time, neither candidate is guaranteed a fully supportive legislature—the Senate will likely remain majority Republican, and the House of Representatives, majority Democrat.

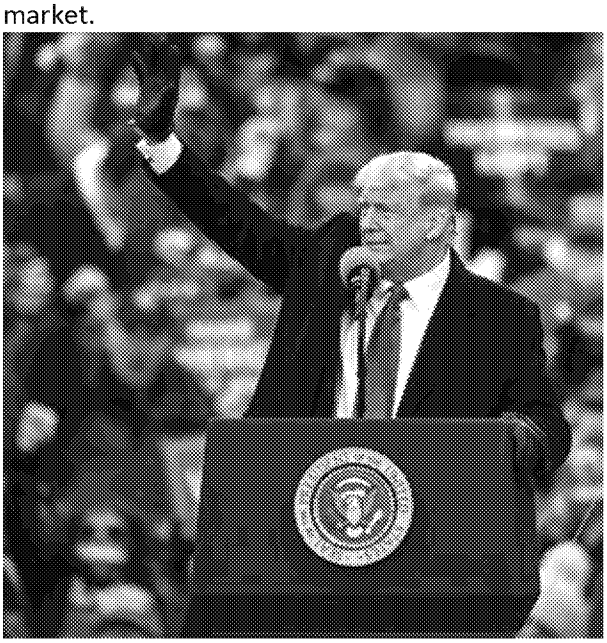
This means that, in some ways, very little will change, regardless of who ends up in the White House, says Sunil Kumar, the former CEO of International Specialty Products and current chairman of Wembly Enterprises, which invests in small specialty chemical firms. A split Congress, for example, means that bills that wind up on the president's desk likely won't be so different whether Trump or Biden sits in the chair.

"I think the future of our chemical industry, the future of the specialty chemical industry, is every bit as good as it was before the election," Kumar says. "A veteran, experienced, seasoned politician like Biden—I can't see him doing anything radical. And frankly, even if he did try to do anything radical, it just won't stick, because [Democrats] won't have control of the Senate."

Here are several issues facing the next president that could spell big changes for people and companies specializing in chemistry and related fields.

THE PANDEMIC

As coronavirus infections continue to swing upward in the US, either Trump or Biden would push for treatments and vaccines, but in different ways. Trump's coronavirus strategy has been economy based—he has urged states to end restrictions quickly and made statements about the pandemic, treatments, and vaccines that have influenced the stock market.



Credit: Scott Hasse/ZUMA Press/Newscom

Donald J. Trump at a campaign rally in Michigan on Oct. 30, 2020

Trump has also been fast to promote treatments that haven't been fully vetted, and he's urged the Food and Drug Administration to make quick decisions before thorough clinical testing. He's promised a coronavirus vaccine on a timeline that industry leaders have said is not realistic and potentially not safe.

Biden, in contrast, has repeatedly talked about trusting scientists and science. If elected president, he wants his own coronavirus task force, replete with public health and public policy experts. He has laid out a seven-point plan that his campaign says would acknowledge the need to maintain a strong economy while preserving public health measures related to COVID-19.

The ability to manufacture enough vaccine for widespread use in the US remains a dilemma, and it's not clear how either man could guarantee enough vaccine for the country. It's also unclear how either candidate will convince companies, pharmacy benefit managers, and insurance companies to keep the cost of treatments and vaccines affordable for everyone.

ENERGY

The Obama administration's signature energy policy was the Clean Power Plan, a climate change initiative intended to reduce carbon pollution by power plants by 32%, or about 790 million metric tons (t), in 2030 compared with 2005 levels. Trump replaced it with the Affordable Clean Energy Rule, which has a much more modest carbon dioxide reduction target of about 10 million t by 2030.

A Biden presidency would return to the ambitious goals of the Obama administration, targeting, for example, net-zero carbon emissions by 2050. He has put forward a 4-year, $2 trillion program to foster green automotive, housing, and construction projects, with an emphasis on environmental justice.

Aveteran, experienced, seasoned politician like Biden—I can't see him doing anything radical.

Sunil Kumar, *chairman, Wembly Enterprises*

But Biden wouldn't limit industry as much as Trump likes to warn. While Trump has said on the campaign trail that Biden intends to ban fracking, Biden says his plan would allow extraction methods, such as fracking, to continue under existing permits on both federal and nonfederal lands.

Overall, Trump's reelection would mean the continuation of an industry-supportive energy policy, with further loosening of regulatory constraints, write analysts at S&P Global Platts in a Nov. 3 report, while Biden would restore Obama-era regulatory policies.

Another 4 years of a Trump administration would likely also mean more rollbacks of environmental regulations that affect chemical companies. During Trump's first term, his administration delayed or reversed several Obama-era proposals intended to protect public health. The moves undercut bans on the brain-damaging pesticide chlorpyrifos, methylene chloride and *N*-methylpyrrolidone in paint strippers, and trichloroethylene in degreasers and spot removers.

The Trump administration also made it easier for chemical manufacturers to get new chemicals onto the US market with limited toxicity data. Congress gave the Environmental Protection Agency authority to request toxicity data from manufacturers under the Toxic Substances Control Act in 2016, but the Trump EPA has not embraced that authority in most cases.

Under a Biden administration, the EPA would likely spend more time evaluating new chemicals and asking manufacturers for toxicity data to fill in any gaps. A Biden EPA would also likely increase scrutiny of chemicals that are already on the market, particularly those considered a high priority for risk evaluation.

In terms of air pollution, Biden may try to reverse some rules enacted by the Trump EPA, including a policy that restricts which studies the EPA can use to develop clean air regulations and a requirement to consider costs over benefits to public health.

IMMIGRATION

Almost from the beginning of his term, Trump set a hard line on immigration that has US scientists concerned the country will no longer be seen as a welcoming place for international students and collaborators.

Just days into his administration, Trump barred residents of seven countries with majority-Muslim populations from coming into the US. Since then, his administration has scuttled protections for "Dreamers"—those who were brought to the US as children and have had no clear path to US citizenship, cracked down on scientific collaborations with China, and attacked temporary H-1B and student visas and attacked the international student and temporary worker H-1B visa programs. These policies would likely continue into 4 more years of a Trump administration.

Biden says he will reverse many of Trump's immigration policies. Those changes include reinstating protections for Dreamers and reforming the H-1B visa program to allow more-permanent, employment-based immigration. Specifically, Biden says that doctoral science graduates from outside the US should receive a permanent resident visa with their degree.

RESEARCH FUNDING

Increased funding for science research is sure to get more support under a Biden administration. He proposes investing heavily in science and technology to make the US more competitive internationally, especially with China.

The plan includes a $300 billion investment in science at existing research agencies, the creation of an Advanced Research Projects Agency for Health, and more funding for research at colleges and universities. Small businesses would also get more investment.

Throughout his term in office, Trump has proposed major funding cuts to most science agencies, most recently in his 2021 proposed budget. Those requests for cuts would likely continue into a new Trump administration.

Targets for cuts have included traditionally popular agencies, like the National Institutes of Health and the National Science Foundation. Federal regulators like the EPA have often faced the biggest cuts. However, Congress has not gone along with the proposed decreases in most cases.

STIMULUS AND TAXES

The split houses of Congress mean negotiations on a coronavirus-prompted economic stimulus package will likely not be smooth regardless of who takes office in January, according to J.P. Morgan analysts in a recent report.

If Trump remains in office, he can work with Congress to move on a stimulus package soon after the election. Current House and Senate members are largely in favor of another round of stimulus checks, enhanced unemployment benefits, and help for small businesses, but significant differences remain on the amount of money involved. The House is holding out for the $3 trillion bill it passed in May, while the White House proposed $1.8 trillion in October, and it's unclear whether the Senate will sign on to anything higher than $1 trillion. Biden is unlikely to have an easier time than Trump negotiating the differences between the chambers.

On taxes, Biden has vowed to raise the corporate rate from 21% to 28% and ensure that companies with profits over $100 million pay a minimum tax. He has promised to end tax subsidies for fossil fuels but expand tax credits for carbon capture, use, and storage as well as electric vehicles and solar energy projects.

TRADE

In 2016, Trump campaigned on upending a decades-long consensus, embraced by presidents from both parties, to accelerate free trade.

And after he was elected, his administration delivered on that campaign promise, imposing tariffs on steel and aluminum. The Trump administration negotiated a replacement for the decades-long North American Free Trade Agreement with Mexico and Canada. And, most dramatically, it instigated a trade war with China that saw both sides impose duties on imports, including on chemical intermediates from China, that were costly to manufacturers.

Under a Biden administration, trade policies would mark a change in tone, but not necessarily a complete reversal. Key Biden proposals include $400 billion in government procurement of American-made goods, a review of supply chains for products such as intermediates for critical drugs, incentives for US manufacturers, and the promotion of fair trade, particularly with adversaries like China.

Some observers say a Biden administration would likely work in concert with allies instead of erecting trade barriers unilaterally. However, "The next four years, regardless of the electoral outcome, will be characterized by continued trade tensions with China," the New York City-based law firm Pillsbury Winthrop Shaw Pittman writes in a recent analysis of both candidates' trade policies.

Agriculture

Dicamba Battle Resumes as Soy, Cotton Groups Sue Over Restrictions

The recent 5-year approval by the EPA of over-the-top dicamba products for use in cotton and soybeans was widely well-received in the ag industry. Many growers and other industry insiders have expressed relief that they will continue to have dicamba available to them to help fight glyphosate-resistant weeds.

In fact, on Oct. 27, 2020, the American Soybean Association released a statement to this effect, saying "The American Soybean Association (ASA) appreciates that the Environmental Protection Agency (EPA) has announced it will reregister dicamba for 2021 and future use. The product is one of many tools integral to the success of soy growers who face different crop production challenges throughout a diverse growing region spanning 30-plus states."

The statement concludes shortly thereafter by saying "ASA is reviewing the new registration to have a comprehensive understanding of its impact for U.S. soybean production. Dicamba is an important choice for growers to have available to help manage damaging weeds."

Upon that review, the ASA is now contending that the new restrictions associated with the dicamba re-registration are too constricting. On Nov. 4, 2020, the ASA, along with the Plains Cotton Growers (PCG) filed a lawsuit against the EPA, saying the new application restrictions would lead to "reduced yield, increased weed management costs."

At issue are the June 30 and July 30 application cutoff dates (for soybean and cotton, respectively) as well as ESA (Endangered Species Act) and FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) buffer zones, which require a 310-foot downwind application buffer and a 57-foot omnidirectional buffer to achieve ESA compliance, and a "240-foot, universally controlling, downwind FIFRA application buffer."

According to the lawsuit, the application cutoff dates "confine Growers' flexibility, cabining their ability to respond to unforeseeable conditions. Every growing season brings its own unpredictable whims— severe weather, pest and weed

infestations, market swings, and more—which often demand farm management flexibility. For example, heavy spring rains, flooding, wind and hail from severe storms, and other acts of God can force soybean and cotton growers into planting or replanting their crops as late as June."

The suit explains that cotton growers, for example, "need effective weed control options through at least the mid-bloom growth stage — usually 90 days after planting," which in some cases could be as late as August of September.

Soybean growers are also likely to need to make dicamba applications later in the season. "First, weather, pestilence, and other acts of God often push soybean growers, like cotton growers, into late season planting and replanting. The June 30 cutoff, then, likely leaves thousands of late season soybean growers largely defenseless against weeds.

"Compounding this, soybean growers annually battle late-emerging weeds, many of which are glyphosate-resistant. For example, waterhemp routinely emerges as late as July and August, and often in glyphosate-resistant form. Banning farmers from using dicamba against these doubly dangerous weeds essentially forces farmers to capitulate to these weeds."

Regarding the increased buffer zones, the lawsuit says the new restrictions could cause the average soybean grower to lose almost a third of their croppable acres. "By way of example, assume the average soybean Grower—who farms a 54-acre field—happens to live in one of the several hundred ESA-restricted counties. Under the Application Restrictions, that Grower loses almost a third of her farmable land to the ESA Buffer. 54 In other words, that Grower, and thousands like her, must either leave 15 acres fallow every year, or sacrifice almost a third of her soybean harvest."

The suit goes on to contend that extending the buffers exceeded the EPA's authority under the ESA and FIFRA and that the buffers are "arbitrary and capricious." In addition, the lawsuit points to an ESA Assessment that found that "registering Dicamba Products would have 'no effect' on certain Limited Species and critical habitat."

The upshot is that the ASA and PCG highlight the importance of dicamba in the fight against weeds and are asking the Washington, D.C. district court to declare that the buffers and application restrictions in the EPA's latest ruling "exceed EPA's authority under FIFRA, the APA (Administrative Procedure Act), and the ESA."

EPA, States Clash Over Pesticides

EPA recently made a unilateral decision to end the state practice of using Section 24(c) labels to add restrictions to the labels of federally registered pesticides, such as dicamba. (DTN file photo by Pamela Smith)

ROCKVILLE, Md. (DTN) -- State regulators are reeling from a sudden apparent policy change by EPA that will make restricting pesticides -- such as dicamba -- beyond the federal label much harder for states to accomplish in the years ahead.

The policy change was announced in a single footnote, buried amid dozens of pages of regulatory documents accompanying EPA's three new dicamba registrations released on Oct. 30. The footnote is only three sentences long, but it packs a punch, regulators and legal experts said. It will require states to go through state law or rulemaking processes if they want to further restrict a federal pesticide, like dicamba.

That means in 2021, most states may be limited to the federal dicamba labels, and unable to implement local dicamba cutoffs and restrictions before the spray season. Only Arkansas's cutoff date of May 25, which has gone through a state rulemaking process each year, is likely to remain in place.

That footnote also reverses decades of precedent, breaks EPA's past promises to the states and threatens to damage the longstanding cooperative relationship between federal and state regulators.

At issue is Section 24(a) and 24(c) of the Federal, Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA's governing law. Section 24(a) establishes that states have the right to regulate federal pesticides through state legislatures or rulemaking procedures, a time-consuming and often political process that can take years.

Section 24(c) is more nimble. It grants states the right to issue "special local needs labels" on an annual basis, to address local agricultural, environmental or public health needs by granting "additional uses" to federal pesticide labels.

For nearly three decades, EPA has interpreted Section 24(c) as also permitting states to "impose more restrictive measures" to federal labels. In 1996, the agency formalized this interpretation and published it as a guidance for states; it still stands on the agency's website here: https://www.epa.gov/... Restrictive 24(c) state labels became particularly popular starting in 2017, as states used special local needs labels to further restrict dicamba pesticides in an effort to control widespread off-target injury reports from the herbicides.

THE FIRST STIRRINGS OF CHANGE

In the spring of 2019, in the midst of yet another wave of state-by-state restrictions to EPA's federal dicamba labels, the agency issued a warning to the states that it was "re-evaluating" this practice and might not allow it to continue, because it violated the actual language of Section 24(c).

See more here: https://www.dtnpf.com/...
State regulators rushed to defend the practice, and pesticide officials from 10 states across the country wrote to EPA urging them not to change this policy. So did the National Association of State Departments of Agriculture (NASDA) and the Association of American Pesticide Control Officials (AAPCO).
Rick Keigwin, then director of the EPA's Office of Pesticide Programs, reassured the states that no changes would be made to the agency's 24(c) interpretation without their input.
"Before adopting any changes in this regard, we will solicit public comment on our proposed new approaches," Keigwin wrote to both AAPCO and Alabama state regulators in letters sent in the spring and summer of 2019. "We look forward to a robust public dialogue with our stakeholders, partners and co-regulators on this matter."
EPA DROPS ITS DECISION -- SORT OF
That "robust public dialogue" never happened, state regulators told DTN.